

PERMIT # _____

**TOWN OF MOUNT DESERT
CONDITIONAL USE APPROVAL APPLICATION**

**FEE \$25.00
PAID _____**

PUBLIC HEARING _____

ADVERTISED _____

PUBLIC HEARING _____

APPLICATION RECEIVED _____ ABUTTERS NOTIFIED** _____

TAX MAP _____ LOT _____ ZONING DISTRICT _____ VILLAGE _____

OWNER(S): _____
(Print Full Name) (Signature)

LOCATION ADDRESS: _____

MAILING ADDRESS: _____

PHONE: _____ BUSINESS: _____ FAX: _____

APPLICANT(S): _____
(Print Full Name) (Signature)

MAILING ADDRESS: _____

PHONE: _____ BUSINESS: _____ FAX: _____

AGENT(S): _____
(Print Full Name)
(Signature)

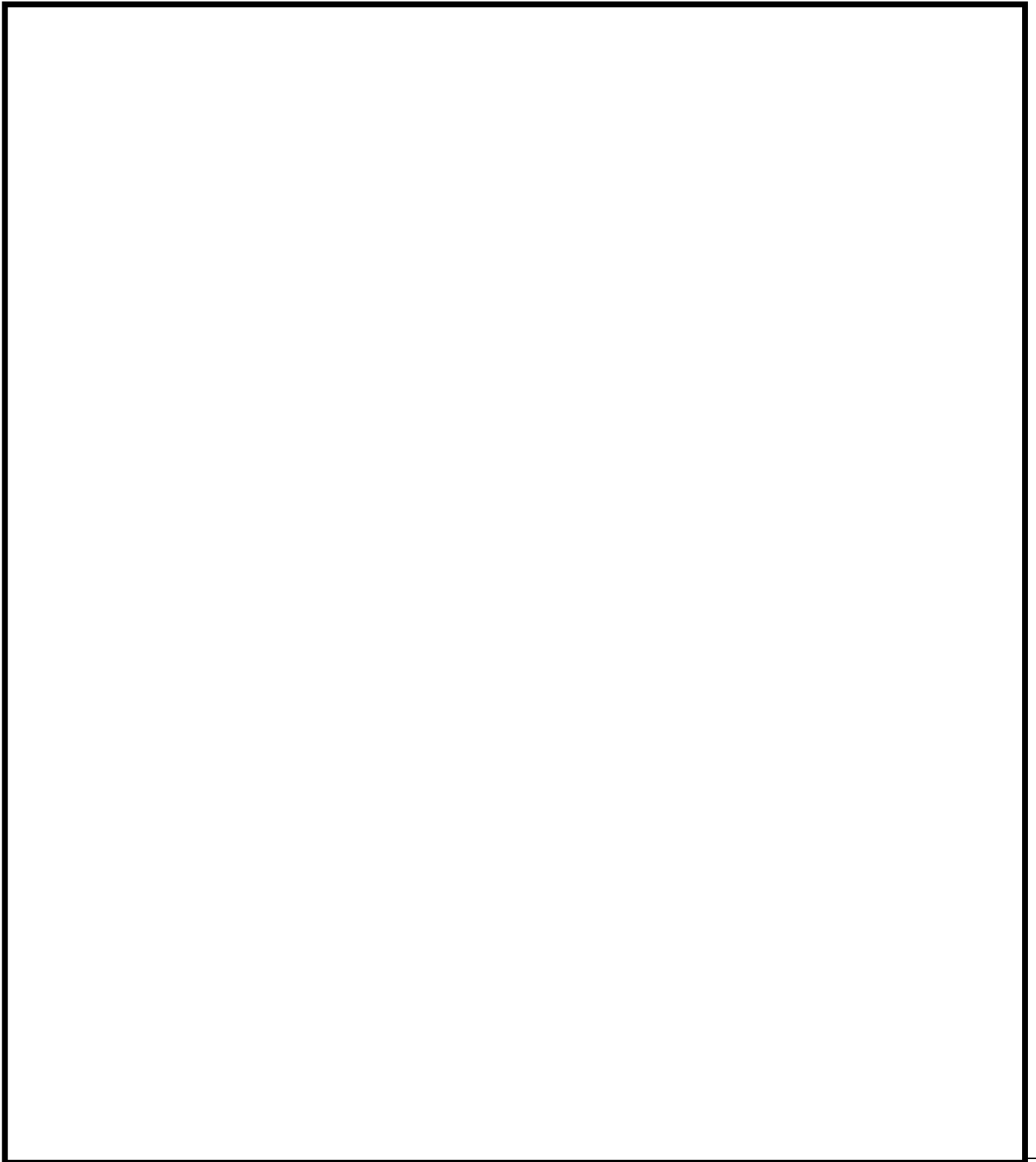
MAILING ADDRESS: _____

PHONE: _____ BUSINESS: _____ FAX: _____

CONDITIONAL USE REQUESTED: *Applicant, explain what you want to do below and SKETCH on back of sheet or attach plan (scale approximate): directions to property, proposed structures and/or activity; relevant dimensions; location and elevation; setback from roads, shore and property lines; distance between buildings; and access road.*

**ALL INFORMATION MUST BE COMPLETE BEFORE AN APPLICATION WILL
BE SCHEDULED FOR A PUBLIC HEARING.**

SITE OR PLOT PLAN --for applicant use, indicate north with arrow.

A large, empty rectangular box with a black border, intended for the applicant to draw a site or plot plan. The box is currently blank.

REMEMBER TO INCLUDE: street names, directions to property, proposed structures and/or activity; relevant dimensions; location and elevation; setback from roads, shore and property lines; distance between buildings; and access road.

Office Use:

SPECIFIC SECTION OF THE LAND USE ZONING ORDINANCE:

LOT SIZE _____ ROAD FRONTAGE _____ SHORE FRONTAGE _____

CONFORMING LOT? YES ____ NO ____

CONFORMING STRUCTURE?

YES ____ NO ____

CONFORMING USE? YES ____ NO ____ SIGN REQUESTED? . YES ____ NO ____

WITHIN STATE MANDATED SHORELAND ZONE? YES ____ NO ____

SECTION 6 STANDARDS FOR USES, PERMITS AND APPROVALS

6A GENERAL PERFORMANCE STANDARDS

6A.1 Compatibility

The proposed use shall be compatible with the permitted uses within the district in which it is located as measured in terms of its:

Physical Size:

Visual Impact:

Proximity to other structures:

Density of Development:

6A.2 Erosion and Sedimentation Control (Please provide a plan)

1. Filling, grading. Filling, grading shall be conducted in such a manner to prevent, to the maximum extent possible, erosion and sedimentation. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 1. Mulching and revegetation of disturbed soil.
 2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 3. Permanent stabilization structures such as retaining walls or riprap.

2. Removal of sand or gravel. Removal of sand or gravel from natural beaches or the disruption or removal of buffer strips that protect fragile land areas immediately behind a shoreline and on neighboring properties is prohibited.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

3. Tilling of soil. Where soil is tilled in a Conservation District, or where soil in excess of twenty thousand (20,000) square feet lying either wholly or partially within the area covered by this Ordinance is tilled in a Rural or Woodland District, such tillage shall be carried out in conformance with...

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6A.3 Highway Safety

The proposed use shall not cause unreasonable congestion on highways or public roads, or unsafe conditions with respect to the use of highways or public roads existing or proposed.

Sufficient off-street parking shall be available:

6A.4 Impact on Town Services

The proposed use shall not unduly burden the capacity of the Town's facilities, including public water and sewage, or the ability of the Town to provide essential public services (such as, but not limited to, schools, fire and police protection, refuse collection, and parking) to its residents and visitors.

6A. 5 Land Suitability

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction.

6A. 6 Lighting – Outdoor (Please provide lighting specifications)

1. **Purpose.** To establish minimum requirements for outdoor lighting that enhance visibility and public safety by preventing uncontrolled intrusion into adjacent properties and the natural environment. Voluntary best practices are recommended to promote energy conservation and preserve the Town's night sky which is an important part of the Town's character.

2. **Requirements:**

1. **Full cutoff.** All lights greater than *1800 lumens (a 100 watt incandescent light produces 1800 lumens) shall be shielded to direct all light towards the ground.
2. **Light trespass.** All light shall be directed away from adjacent properties. The light sources in flood and spot lights shall not be directly visible from adjacent properties. High intensity light sources shall not be directly visible to motorists on public roads.
3. **Excessive Lighting** may not be used to direct attention away from existing business and community lighting.
 1. The lighting of structural canopies such as gas station canopies shall not be used to attract attention to the business. Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum illumination) shall be no greater than 5:1 with an average illumination level of not more than 30 footcandles.
 2. Light fixtures located on structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

3. **Recommended Best Practices:**

1. Motion sensors. Use motion sensors to control flood and spot lights.
2. HPS lights. Use high pressure sodium (HPS) lights to minimize sky glow where color recognition is not needed.
3. Non-security parking lights. Turn off non-security parking lot lights after business hours to save energy and protect the night sky.
4. Minimum amount of lighting. Provide the minimum amount of light needed to achieve safe uniform lighting with lights that consume the lowest amount of power possible.

5. Shield or flush mount lights. Fully shield or horizontally flush mount all lights.
6. Signs and flags. Illuminate signs and flags from above and shield all sports lighting.
7. Guidelines for professional design. Request that professionals follow Illuminating Engineering Society guidelines for intensity and uniformity and not to exceed the minimum recommended values.

4. Definitions

Lumen: Approximately the amount of light measured one foot from a candle. 1 lumen is approximately 1 foot candle. ***A 100 watt incandescent light produces 1800 lumens.**

6A.7 Stormwater

1. **Purpose.** The direct discharge of stormwater from ditches, swales and developed sites to streams and lakes can contribute to water pollution because stormwater can contain sediment, nutrients, hydrocarbons and other harmful substances. Stormwater can also damage roads, ditches, culverts and other drainage structures that are not designed or sized to accommodate storm flows.

These problems can worsen when an undeveloped woody site is cleared for development since stormwater that was previously intercepted by vegetation and absorbed into the ground is allowed to flow more freely across and off of the site. The closer post-project stormwater flows are kept to pre-project conditions in terms of volume, rate, timing and pollutant load, the less likely that stormwater will damage the site or public or private property or cause harm to water bodies.

2. **Applicability.** In any district all new construction, development or other alteration of a lot must be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions.
3. **Stormwater plan required.** The applicant shall submit a Stormwater Management Plan prepared in conformance with the following requirements (see Code Enforcement Officer for example of stormwater plan):
4. **Vegetated buffer.** The lot shall be developed to accommodate a vegetated buffer. The purpose of the buffer is to intercept and then spread out and soften the flow of water. Stormwater from the developed portion of the site shall be directed by sheet flow to the buffer. This buffer need be located only on the downslope side(s) of the lot. If, due to lot orientation, a driveway or other opening must be located within the buffer, it shall be sited so that drainage from the developed portion of the site, including the driveway, can still be directed by sheet flow into the buffer. The buffer requirement may be met as follows:
 - a. **Wooded buffer width.** If the buffer is presently wooded, it shall be at least 25 feet in width. Removal of trees and other vegetation within the buffer cannot result in any cleared openings or disturbance of the existing forest floor except for removal of dead trees and safety hazards.
 - b. **Non-wooded buffer width that revert to woods.** A minimum 25-foot wide non-wooded buffer may also be used if it is allowed to revert to woods or is planted with shrubs or similar landscaping which minimizes disturbance of ground vegetation and leaf litter.
 - c. **Non-wooded buffer width.** If a non-wooded buffer is to be maintained as a field, it shall be at least 50 feet in width and mowing limited to no more than twice per year.

- d. **Buffer alternatives.** Berms, detention basins or other alternatives as approved by the Code Enforcement Officer may be used instead of vegetated buffers if they are designed to intercept and then spread out and soften the flow of stormwater without channeling it. The Code Enforcement Officer is authorized to request the review and endorsement of any such alternatives by the Hancock County Soil and Water Conservation District, the cost of which shall be borne by the Applicant.
5. **Natural drainage.** Existing swales or drainage courses that carry water through the site are to remain undisturbed to the maximum extent possible. Culverts, stream crossings and other alterations may be permitted if the flow of water is unimpeded as it leaves the property in a manner similar to pre-project conditions.
6. **Directing sheet flow to buffers.** All disturbed portions of the site, including buildings, lawns and driveways, are to be graded to direct sheet flow of drainage into the buffer areas and not into roadside ditches. **Any** drainage that must be directed to roadside ditches shall be minimized.
7. **Filling or grading to protect the shoreline and prevent erosion.** On slopes greater than twenty-five (25) percent, there shall be no grading or filling within one hundred (100) feet of the normal high water mark, except to protect the shoreline and prevent erosion.
8. **CEO Inspection.** Following completion of lot development, the Code Enforcement Officer or his/her designee shall inspect the lot to verify that the requirements of the Stormwater Standard have been met. Should the Code Enforcement Officer determine that the lot is not in compliance with the Stormwater Standard, he/she shall initiate enforcement action to bring the lot into compliance in accordance with the provisions of this Ordinance.
9. **Modifications.** The Code Enforcement Officer may approve modifications to the Stormwater Standard if the applicant can demonstrate that the intent of Stormwater Standard will be complied with. In making this determination, the Code Enforcement Officer may request the review and endorsement of the Hancock County Soil and Water Conservation District. The cost of such assistance shall be borne by the applicant.
10. **Maintenance.** Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6A.8 Vegetation

1. **Clearing.** Clearing of trees or conversion to other vegetation is allowed for permitted construction provided that:
Appropriate measures are taken, if necessary, to prevent erosion when activity is undertaken. The activity is in conformity with State Mandated Shoreland Zoning.
2. **Tree removal near town or state roads.** Removal of more than 25% of the trees within 25 feet of any town or state road in any 12 month period (except for those required to complete permitted construction) shall require a Conditional Use Approval of the Planning Board. Other woody plants must be retained or replaced with native species.
3. **Slash.** No accumulation of slash shall be left within 50 feet of any town or state road or within 50 feet of the normal high-water line of any water body. Slash shall be disposed of so that no part extends more than 4 feet above the ground.

4. **CEO Permit.** A CEO Permit is required for cutting timber larger than 4 inches in diameter measured 4 ½ feet above ground when the total amount to be cut is greater than 10 cords but less than 50 cords in any one year period.
5. **Conditional Use Approval.** Conditional Use Approval is required from the Planning Board for cutting timber larger than 4 inches in diameter measured 4 ½ feet above ground when the total amount to be cut is 50 cords or more in any one year period.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6.A.9 Dust, Fumes, Vapors, Odors and Gases

Emission of dust, fly ash, fumes, vapors, odors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating that emission shall comply with applicable Federal and State regulations.

SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES

6B.1 Agriculture

All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land", published by the University of Maine and the Maine Soil and Water Conservation Commission, in July 1972.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6B.2 Air Landing Sites

No air landing site shall be developed or used for such purpose without Conditional Use Approval of the Planning Board.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6B.7 Excavation (other than gravel pits) or filling

Excavation or filling shall be permitted in any district only to the extent such activities are essential or are incidental to any permitted, conditional, or other lawful use. Filling, dumping, or excavation of any matter is allowed as specified in Section 3.4 of the Land Use Zoning Ordinance.

Appropriate measures shall be taken to prevent erosion during or after the filling or excavation, and the applicable standards of Section 6A.2 shall be complied with. All fill permits are approved for a twelve (12) month period only and expire twelve (12) months from the date of approval. The Code Enforcement Officer may renew either the Code Enforcement Officer permit or the Conditional Use Approval for additional twelve (12) month periods.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6B.8 Fences and walls

A solid fence (as opposed to a rail or similar fence) or wall, more than four (4) feet in height, measured vertically from the ground directly beneath the fence or wall, shall require either a Code Enforcement Officer Permit or Conditional Use Approval. Such fences or walls shall not unduly restrict scenic views. The structural side of the fence shall not face the public view.

1. A Code Enforcement Officer Permit may be issued for solid fences or walls up to six (6) feet in height provided that:
 - a. A setback of six (6) feet is maintained from roads, sidewalks, and right-of-ways.
 - b. It does not obstruct highway visibility.
 - c. A plan for vegetative screening, in the six (6) foot setback area, is provided that produces a minimum of twenty (20) percent cover of the fence or wall area. The plan must be implemented and maintained.
2. Fences or walls that do not meet the above criteria shall require Conditional Use Approval of the Planning Board.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6B. 12 Mineral Exploration and Extraction

Ground disturbance limit. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation.

Mineral exploration is prohibited in the Resource Protection and Stream Protection Districts. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Extraction. Mineral extraction may be permitted under the following conditions:

1. **Reclamation plan.** A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 6B.13.3, below.
2. **Setback.** No part of any extraction operation, including drainage and runoff control features, shall be permitted within the Resource Protection and Stream Protection Districts, nor within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
3. **Reclamation.** Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 1. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 2. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 3. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
 4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6B.15 Sign Regulations

1. **6B.15.6.2. Size limit.** No sign (except banners) shall exceed thirty-two (32) square feet in area. Nor shall the aggregate of all signs on site pertaining to any business exceed thirty-two (32) square feet in area unless Conditional Use Approval of the Planning Board is obtained. In shoreland areas, no sign shall extend higher than twenty (20) feet above the ground.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

2. **6B.15.6.5. Roof signs.** Roof signs shall not be permitted except after the issuance of Conditional Use Approval of the Planning Board. No roof sign shall extend above the roof line of the building.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6B.17 Wireless Communication Facilities

Purpose.

The purpose of this subsection is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Planning Board during the Conditional Use Approval process upon review of an application for the placement and construction of a wireless communications tower. These standards and requirements are intended to regulate the location and installation of such facilities in order to:

- a. Protect and preserve the aesthetic quality of Mount Desert as set forth in the goals, policies and objectives of the adopted Mount Desert Comprehensive Plan.
- b. Protect and preserve the visual character of the Town and Acadia National Park.
- c. Protect abutting properties from potential damage from tower failure, falling ice and to prevent other hazards to public safety through careful siting regulations and engineering requirements.
- d. Require co-location on existing and future wireless communications towers and maximize the use of existing and approved towers and other existing structures such as utility poles and buildings to accommodate new communications antennas in order to reduce the number of new towers needed to serve the community's needs.

Submissions.

In addition to all of the relevant Conditional Use Approval Application submission requirements, the following submissions, in a form acceptable to the Planning Board shall be required, unless waived by the Planning Board:

- a. A report from a professional engineer registered in the State of Maine that describes the communications tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s) and volume of antenna(s) that it can accommodate and the basis for the calculation of capacity.

- b. For pole-mounted facilities, certification by a professional engineer registered in the State of Maine that the design is adequate to support, without failure, the maximum forces expected from wind, earthquakes, ice/snow loading when the pole is fully loaded with antennas, transmitters, other equipment, and camouflaging, as described in the submitted plan.
- c. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility, including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- d. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, measurements and elevations of the structure shall be provided.
- e. Details of all accessory structures, including buildings, parking areas, utilities, gates, access roads, etc.
- f. A narrative and demonstration detailing:
 - 1. The extent to which the proposed facility would be visible from scenic resources as determined by the Planning Board and from Acadia National Park.
 - 2. The tree line elevation of vegetation within 300 feet of the proposed tower.
 - 3. The distance to the proposed facility from the designated scenic resources.
- g. A visual impact assessment, which shall include a photo montage, field mockup, or other techniques, shall be prepared by or on behalf of the applicant who identifies the potential visual impacts at design capacity, of the proposed facility. Consideration shall be given to views from public areas, as well as from private residences and from Acadia National Park, archaeological and historic resources, including historic districts, areas and structures, specifically those listed in the National Register of Historic Places, or eligible for inclusion. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communications facilities in the area and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communications service.
- h. Site photos showing vegetation, existing and adjacent structures and views of and from the proposed site. Topography of and land uses on the proposed parcel and on abutting properties.
- i. Landscaping plan showing location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.
- j. Identification of any other communications facilities existing or proposed on the site.
- k. A written description of how the proposed facility fits into the applicant's communications network, including a demonstration of a coverage and/or capacity problem, demonstration that all alternatives and existing structures have been identified and fairly rejected, that the proposed height is the minimum height necessary to achieve the targeted coverage area and a description of how other tower heights would change the coverage area. It should also describe reasonable anticipated expansion of the proposed

facilities on the proposed site and related facilities in the region and reasonable anticipated changes of technology and their effect on expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information.

- l. A letter of intent that commits the tower owner and successors in interest to:
 1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.
 2. Negotiate in good faith for shared use by other parties.
- m. Evidence that co-location on existing or an approved tower is not possible per co-location section above or in adjacent towns. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower and generally describe the means and projected cost of shared use of the existing or approved tower site.
- n. Proof of financial capacity to build, maintain, and remove the proposed tower.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

Design Standards.

The following design standards shall be met by the applicant. The Planning Board, as part of the Conditional Use Approval review process, shall determine if the applicant has complied with these standards. All communications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

- a. Towers shall be constructed of metal or other nonflammable material unless specifically waived by the Planning Board due to technical or engineering reasons.
- b. Accessory facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.
- c. Accessory facilities shall be constructed out of no reflective exterior materials with earth toned colors or shall be placed underground, if possible.
- d. New accessory facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.
- e. All buildings, poles, towers, antenna supports, antennas and other components of each communications facility site shall be initially painted and thereafter repainted as necessary with matte finish paint. The color(s) selected shall be one that the Planning Board determines will minimize their visibility to the greatest extent feasible. To this end, improvements that will be primarily viewed against soils or trees shall be painted colors matching these landscapes, while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location unless the Planning Board determines that an alternative proposal will minimize visibility.
- f. The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

- g. Sufficient antclimbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.
- h. Only security lighting is permitted. All outdoor lighting shall meet Section 6A.6 standards of the Land Use Zoning Ordinance unless required by the Federal Communications Commission, Federal Aviation Administration, or other federal agency.
- i. Advertising and commercial signs shall not be permitted on a communications facility.
- j. Guy wires shall not be permitted as part of a communications facility.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

Location.

All communications facilities shall be located so as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location:

- a. Communications facilities shall not be sited in areas of high visibility, as determined by the Planning Board, to meet the purpose of this subsection unless the facility is designed to minimize its profile by blending with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable. The height of a communications tower that is located within the view shed of a scenic vista, scenic landscape or scenic road, as determined by the Planning Board, may be, at the discretion of the Planning Board, subject to height limitation. Such limitation may restrict the height of the tower such that it does not exceed the height of vegetation within 300 feet of the proposed location.
- b. No facility shall be located so as to create a significant impact to the health or survival of rare, threatened or endangered plant or animal species.
- c. No facility shall be located within areas two hundred fifty (250) feet of the normal high-water line of any great pond, or areas within two hundred fifty (250) feet of the upland edge of a coastal or freshwater wetland, or areas within seventy-five (75) feet of the high-water line of a stream.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

Standards.

In addition to the criteria and standards, listed in Section 6 of the Land Use Zoning Ordinance these additional criteria and standards shall be utilized by the Planning Board in reviewing applications for Conditional Use Approval for proposed communications facilities:

- a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either by landscaping, fencing or other architectural screening.
- b. Antennas shall be as small as technically possible in order to minimize visual impact.

- c. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- d. Other technically feasible sites have been investigated, and if available, the proposed facility has been located in order to minimize the effect on visually sensitive areas.
- e. Co-location, where technically feasible and visually desirable, on an existing tower, has been investigated, and if technically and financially feasible, the proposed facility is co-located.
- f. Use of an existing community facility site, such as utility poles, has been investigated as a potential site for a tower, antennas and other equipment and, if available and technically feasible and visually desirable, is proposed as the site for the facility.
- g. Adequate bonding for removal of the communications, facility, in a form, and amount acceptable to the Town Manager has been submitted.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

SHORELAND ZONING STANDARDS

Land Use Standards.

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6C.1 Agriculture and Animal Husbandry

1. **Manure spreading.** All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).
2. **Manure storage.** Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands.
3. **Conservation plan.** Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board.
4. **New tilling.** There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands.
5. **Livestock grazing areas.** Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high- water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6C.2 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6C.5 Essential Services

1. **Limited to public ways.** Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. **Exclusion from RP, Stream Protection.** The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection nor Stream Protection District except to provide services to a permitted use within the Stream Protection District or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. **Damaged lines.** Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6C.6 Parking Areas

1. **Setback from water.** Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Shoreland Commercial District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the Shoreland Commercial District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. **Adequate size.** Parking areas shall be adequately sized for the proposed use and shall be

designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

3. **Determination of size.** In determining the appropriate size of proposed parking facilities, the following shall apply:

1. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long. However, should the Board find that there are special circumstances of topography, traffic access and safety, or environmental concerns, the Planning Board may waive provisions of this section provided that such waiver does not have the effect of nullifying the purpose of this section.
2. Internal travel aisles: Approximately twenty (20) feet wide.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6C.7 Marine and Freshwater Structure Performance Standards

Marine Structure Definition.

Piers, docks, floats, wharves, bridges over ten (10) feet in length, and other marine structures extending over or below the normal high-water line of a water body or within a wetland.

Requirement.

All marine structures shall require Conditional Use Approval of the Planning Board and compliance with the performance standards below before Conditional Use Approval will be granted. The Planning Board may require the submission of an environmental impact assessment on natural areas and may require mitigation measures such as 1.) Changes in the design and/or location of the marine structure, and/or 2.) Changes in the magnitude of activities on the marine structure.

The performance standards are as follows:

Commercial and public marine structures are exempt from requirements 13 through 16.

1. **Access from shore.** Access from the shore shall be developed on soils appropriate for such use and measures shall be taken to minimize soil erosion both during and after construction. Whenever possible, access from the shore to the marine structure shall be placed on bedrock. The Planning Board may require consultation with the local Soil and Water Conservation District Office.
2. **Interference with existing uses and beaches, etc.** The location of the marine structure shall not interfere with developed or natural beach areas, or access to existing marine structures or points of public access, nor shall it unreasonably interfere with the use of other marine structures and landing places.
3. **Effect on fisheries, wildlife, etc.** The marine structure shall be designed, sited, and constructed to minimize adverse impacts on fisheries, significant wildlife habitats or unique natural areas including, but not limited to: fin fish and shellfish fisheries, salt marshes, eel grass beds, shorebird and nesting habitats, critical fish spawning and nursery areas.

4. **Size.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
5. **No new structures.** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. **New permanent piers and docks.** New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
7. **Conversion to dwellings.** No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
8. **Height limit.** Except in the Shoreland Commercial District, structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
9. **Conditional use permit required.** Piers, docks, floats, wharves, breakwaters, causeways, marinas, bridges more than 20 feet in length, and permanent uses projecting into water bodies from normal high water line shall require Conditional Use Approval of the Planning Board. The Planning Board may issue guidelines to insure compliance with state laws.
10. **Interference with natural flow.** Interference with the natural flow of any surface or subsurface waters shall be minimized during the construction and subsequent use of the marine structure.
11. **Encroachment on navigation.** The marine structure shall be designed, sited, and constructed so as not to encroach upon officially designated navigation channels.
12. **Mooring area.** The Planning Board shall request comment from the Harbor Master in cases where the applicant proposes to build a marine structure in an officially designated mooring area.
13. **Dimensional limits.** The marine structure shall comply with the dimensional limits listed below. The facility shall be no larger than necessary to accomplish the purposes for which it is designed. Its size and construction shall not change the intensity of the adjoining land use, and by no means shall exceed a total distance of more than one-third the width of the coastal wetland or water body, when proposed for coastal or inland waters. Notwithstanding the dimensional limits below, in areas where the horizontal distance from the normal high-water line to the mean lower low water is in excess of 160 feet, no permanent structure will be allowed seaward of the upland edge of a coastal wetland.

<i>Marine Structure</i>	<i>Dimensional Requirement</i>	<i>Proposed Dimensions</i>
<i>Maximum length of entire marine structure (i.e. pier, ramp and float combined)</i>	<i>225 feet¹</i>	
<i>Maximum length of all permanent structures</i>	<i>150 feet</i>	
<i>Maximum length of all non-permanent structures (i.e. ramp and float)</i>	<i>75 feet²</i>	
<i>Maximum width of pier walkway</i>	<i>6 feet</i>	
<i>Maximum width of ramp</i>	<i>6 feet</i>	
<i>Maximum square footage of floats</i>	<i>400 square feet</i>	
<i>Maximum square footage of floats for communal marine structures (see 14 and 15 below)</i>	<i>800 square feet</i>	
¹ Or length needed to obtain six feet of depth of water at mean lower low water, whichever is less.		
² In cases where no permanent structure is proposed the applicant will be permitted to install a ramp and float extending no further than 75 feet into the water body.		

14. Additional square footage for floats. If two or more shorefront lot owners choose to share a communal marine structure the applicant may request additional square footage of floats.

15. Communal dock. When proposed by the applicant, new subdivisions may provide a communal dock in lieu of the development of docks on individual lots. The applicant may request additional square footage of floats provided a demonstrated need can be shown.

16. Limit on number. There shall be no more than one marine structure on a lot.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6C.9 Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- Setback.** Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

Steep slopes. On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 6C.10.1 does not apply to approaches to water crossings or to roads or driveways

that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 6C.10.1 except for that portion of the road or driveway necessary for direct access to the structure.

2. **Existing public roads.** Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
3. **New roads, driveways, prohibited in RP and SP.** New roads and driveways are prohibited in the Resource Protection and Stream Protection Districts except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the Resource Protection and Stream Protection Districts in accordance with Section 7.5.3. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. **Steepness.** Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 6C.5
5. **Grades.** Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
6. **Drainage to unscarified strip.** In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. **Ditch relief.** Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch.

To accomplish this, the following shall apply:

1. **Ditch relief culverts.** Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21	40

2. **Drainage dips.** Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
3. **Slopes greater than 10%.** On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line **perpendicular** to the centerline of the road or

driveway.

4. **Culvert size.** Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
8. **Maintenance.** Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

☐ N/A

☐ Applicable, Standard Met

☐ Applicable, Standard Not Met

6C.11 Timber Harvesting

1. **Resource Protection and Stream Protection Districts.** In the Resource Protection and Stream Protection Districts, timber harvesting is prohibited.
2. **Areas other than Resource Protection or Stream Protection.** Except in areas as described in Section 6C.13.1 above, timber harvesting shall conform with the following provisions:
 1. **40% limit.** Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 1. **No clearcuts within shoreline setback.** Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover shall be maintained.
 2. **Cleared openings farther than shoreline setback.** At distances greater than one-hundred (100) feet, horizontal distance, of a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 2. **Harvesting in excess of 40%.** Timber harvesting operations exceeding the 40% limitation in Section 6C.13.2.1 above may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 3. **Accumulation of slash.** No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the

ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

4. **Stream channel travel prohibited.** Timber harvesting equipment shall not use channels as travel routes except when:
 1. Surface waters are frozen; and
 2. The activity will not result in any ground disturbance.
5. **Crossing of flowing water.** All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock similar hard surface which would not be eroded or otherwise damaged.
6. **Skid trail runoff.** Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
7. **Soil exposure setback.** Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

6C.12 Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

☐ N/A ☐ Applicable, Standard Met ☐ Applicable, Standard Not Met

5.9 Standards

The application for Conditional Use Approval shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of the standards of Section 6A and/or one or more of the applicable standards of Section 6B or 6C. In all instances, the burden of proof

shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable standards have been met.

In addition, **in all shoreland areas**, after the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- | | | | | |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|------------------------------------------|-------------------------------------------|
| 5.9.2 | Will not result in water pollution, erosion, or sedimentation to surface waters: | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.3 | Will adequately provide for the disposal of all wastewater: | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.4 | Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat: | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.5 | Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters: | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.6 | Will protect archaeological and historic resources as designated in the comprehensive plan: | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.7 | Will not adversely affect existing commercial fishing or maritime activities in a Shoreland Commercial district: | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.8 | Will avoid problems associated with floodplain development and use; (In compliance with Floodplain Management Ordinance of the Town of Mount Desert – Amended March 7, 2006.) | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.9 | Is in conformance with the provisions of Sections 6A, 6B and 6C: | <input type="checkbox"/> N/A | <input type="checkbox"/> Standard Met | <input type="checkbox"/> Standard Not Met |

The holder of a Conditional Use Permit/Approval must construct and operate the approved conditional use as applied for and as represented during the permitting process to the Planning Board.

NOTE: The Land Use Zoning Ordinance requires that a Conditional Use Permit/Approval must be undertaken within one year from the date of approval, or a new permit must be obtained.

MINUTES OF THIS PUBLIC HEARING CONSTITUTE A PART OF THE RECORD FOR THIS MATTER.